

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Gordon v. Cooper

Gordon · No. 2:24-cv-2741 CSK P · Decided June 12, 2025

SUMMARY

The court recommends dismissing Dustin Thomas Gordon’s action without prejudice after he failed to file a second amended complaint or otherwise respond within the granted period. The order directs the Clerk to assign a district judge and advises that objections to the findings and recommendations must be filed within fourteen days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 12, 2025
DOCKET	2:24-cv-2741 CSK P
DISPOSITION	other
PROCEDURAL POSTURE	A magistrate judge issued findings and recommendations that the prisoner civil-rights action be dismissed without prejudice after plaintiff failed to file a second amended complaint or otherwise respond to an order granting leave to amend.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- civil procedure
- sanctions
- pleadings

PRACTICE AREAS

- civil procedure
- prisoner civil rights

QUESTIONS PRESENTED

- Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) and Local Rule 110 because plaintiff failed to comply with the court’s order and failed to prosecute the

action.

KEY QUOTATIONS

“IT IS RECOMMENDED that this action be dismissed without prejudice.” (at 1)

FACTUAL BACKGROUND

The court had previously dismissed Gordon's amended complaint and granted him thirty days to file a second amended complaint. The thirty-day period expired without a second amended complaint or any other response from Gordon.

PROCEDURAL HISTORY

The court had dismissed plaintiff's amended complaint on May 1, 2025, and granted thirty days to file a second amended complaint. Plaintiff did not file the second amended complaint or otherwise respond within the allotted time. The magistrate judge recommended dismissal without prejudice and advised plaintiff of the fourteen-day objection period.

DISPOSITION

other

CASES CITED

- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(PC) Gordon v. Cooper

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 DUSTIN THOMAS GORDON, No. 2:24-cv-2741 CSK P

12 Plaintiff,

13 v. ORDER AND FINDINGS &

RECOMMENDATIONS

14 JIM COOPER, et al., 15 Defendants. 16 17 By order filed May 1, 2025, plaintiff’s amended
complaint was dismissed, and thirty days 18 leave to file a second amended complaint was
granted. Thirty days from that date have now 19 passed, and plaintiff has not filed a second
amended complaint, or otherwise responded to the 20 court’s order. 21 In accordance with the
above, IT IS HEREBY ORDERED that the Clerk of the Court is 22 directed to assign a district

judge to this case; and 23 IT IS RECOMMENDED that this action be dismissed without prejudice. See Local Rule 24 110; Fed. R. Civ. P. 41(b). 25 These findings and recommendations are submitted to the United States District Judge 26 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 27 after being served with these findings and recommendations, plaintiff may file written objections 28 with the court and serve a copy on all parties. Such a document should be captioned 1 | “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that 2 || failure to file objections within the specified time may waive the right to appeal the District 3 || Court’s order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). 4 5 || Dated: June 12, 2025 6 Aan Spe

CHI SOO KIM

7 UNITED STATES MAGISTRATE JUDGE

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